IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 67 of 1997

For Approval and Signature: sd/-

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KANTIBHAI PARSHOTTAMDAS -DECD.THRO'HEIRS

Versus

MANUBHAI PARSHOTTAMDAS BAROT

Appearance:

1. Appeal from Order No. 67 of 1997

MR VC DESAI for Petitioners No. 1-1/1/F

MR PK JANI for Respondents No. 1,1/2

NOTICE SERVED for Respondents No. 1/1,1/3,3/3/A-3/3/B

NOTICE UNSERVED for Respondent No. 2

..... for Respondent No. 3

SERVED BY AFFIX.(N) for Respondents No. 3/3/C-3/3/D

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 18/10/2001

ORAL JUDGEMENT

1. Against the impugned order dated 15.1.1997 passed by the learned Civil Judge (SD), Mehsana, Camp at Kalol, dismissing the Application Ex.5 in Special Civil Suit No.28 of 1995 and vacating the ad.interim order of status-quo the present Appeal is filed. It was straightway admitted by the learned single Judge of this Court on 5.2.1997 Along with this Appeal, Civil Application No.1443 of 1997 was filed. While issuing the notice to the respondent on that Civil Application, by way of ad.interim relief the respondents were directed to maintain status-quo with respect to the property shown in Schedule II of Exh.5 i.e. the properties which were in the name of deceased Nanduben Ratilal. The said interim relief was extended from time to time and till today it is in force.

2. Considering the facts and circumstances of the case it was jointly submitted by the learned Counsel for the parties that without going into the legality and validity of the impugned order passed by the trial Court and without prejudice to the rights and contentions of the parties before the trial Court this Appeal be disposed of with direction to the learned trial Judge to dispose of the main Civil Suit No.28 of 1995 filed before the trial Court as early as possible and till then the interim order dated 5.2.1997 passed by the learned Single Judge of this Court on Civil Application No. 1443 of 1997 be continued. Considering the peculiar facts and circumstances of the case the request seems to be genuine and therefore granted.

3. Accordingly, this Appeal is disposed of without going into the legality and validity of the impugned order passed by the trial Court with direction to the trial Court to dispose of the main Civil Suit No. 28 of 1995 as early as possible and not later than 31st December 2002. The parties shall fully cooperate with the final disposal of the Suit. Till then the interim relief granted earlier on 5.2.1997 in Civil Application No.1443 of 1997 shall continue. It is made clear that this order is passed without prejudice to the rights and contentions of the parties which may be raised before the trial Court.

Civil Application No. 1443 of 1997 is accordingly disposed of in terms of the order passed in the main Appeal.

sd/-

Date : October 18, 2001 (B.J.Shethna, J.)

sas